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Federal Communications Commission
Washington, D.C. 20554

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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| In the Matter of: |) | |
| |) | |
| Policies and Rules Pertaining to |) | File No. CCB/CPD 97-19 |
| Local Exchange Carrier "Freezes" |) | RM-9085 |
| on Consumer Choices of Primary |) | |
| Local Exchange or Interexchange |) | |
| Carriers |) | |

REPLY COMMENTS OF
THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY

The Southern New England Telephone Company (SNET) hereby files its reply to the comments filed on June 4, 1997, addressing issues raised in the Petition for Rulemaking filed by MCI Telecommunications Corporation (MCI) on March 18, 1997.¹ In its Petition, MCI requests that the Federal Communications Commission (Commission) institute a rulemaking to regulate the solicitation, by any local exchange carrier (LEC) or its agent, of primary interexchange carrier (PIC) "freezes" or other carrier restrictions on a consumer's ability to switch its choice of interexchange and local exchange carrier.

¹ FCC Public Notice released May 5, 1997, established that comments are due on June 4, 1997, and Reply Comments are due to be filed on June 19, 1997, File No. CCB/CPD 97-19, RM-9085.

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I. INTRODUCTION

As demonstrated in the Comments of various parties,² including SNET, unauthorized PIC changes, known as "slamming," are increasing at an alarming rate, and show no signs of subsiding. It is imperative, therefore, that customers have the option of implementing PIC freezes on their lines in order to protect their service from being switched to another carrier without their express permission.

SNET began offering its PIC freeze option, known as Carrier Choice Protection, to its customers in 1990 as a means to protect their interstate long distance service. At that time, the intrastate market in Connecticut was not yet open to competition. SNET began offering Carrier Choice Protection to respond to customer demand for such protection. Due to the significant increase in slamming complaints over the past several years, SNET has recently begun to actively market this offering in order to protect customers from these unauthorized PIC changes.³ It is also important to note that Carrier Choice Protection is an optional service, and is not a condition of SNET's long distance services.

² Citizens Communications (Citizens); NYNEX Telephone Companies (NYNEX) and Bell Atlantic; BellSouth Telecommunications, Inc. (BellSouth); Southwestern Bell Telephone Company (SWBT), Pacific Bell and Nevada Bell; Ameritech Operating Companies (Ameritech); GTE Service Corporation (GTE); United States Telephone Association (USTA); ALLTEL Telephone Services Corporation (ALLTEL).

³ Since SNET filed its Comments on June 4, 1997, yet another customer has written an editorial in the local newspaper praising SNET's PIC freeze option. It is clear that there is strong customer demand for this service. See Attachment A.

MCI's Petition completely ignores the real problem - slamming. This is no surprise, however, since MCI (as well as AT&T) has been accused of slamming since the early 1990s.⁴ In any event, the Commission should dismiss MCI's Petition and instead, should consider the issue of PIC freezes as part of its overall consideration of slamming issues pursuant to the Telecommunications Act of 1996.⁵ PIC freezes were implemented specifically as a means to protect consumers against slamming and, therefore, these issues should be considered together. The rules proposed in MCI's Petition are unnecessary and should not be adopted by the Commission.

II. PIC FREEZES DO NOT IMPEDE COMPETITION.

Contrary to the unfounded assertions of various parties to this proceeding,⁶ PIC freezes do not impede competition. As stated in SNET's Comments, the experience in Connecticut proves this to be true. For instance, SNET instituted PIC freezes *prior* to instate equal access. Now that the state is 100% converted to equal access and the market is wide open, the instate toll market is so competitive that the Connecticut Department of Public Utility Control has found instate toll services to be fully competitive under Connecticut law.⁷

⁴ See Common Carrier Bureau Finds Five Companies Apparently Liable for Forfeiture for Slamming, Jan. 23, 1996, 1996 FCC Lexis 219; FCC Proposes Fining MCI and AT&T for "Slamming," Wall St. J., Jan. 24, 1996, at 8.

⁵ Pub. L. No. 104-104, 110 Stat. 56 (codified at 47 U.S.C. §§ 151 *et seq.*) (the Act).

⁶ MCI Telecommunications Corp. (MCI); AT&T Corp. (AT&T); Sprint Communications Company L.P. (Sprint); Competitive Telecommunications Association (CompTel); WorldCom, Inc. (WorldCom); Telecommunications Resellers Association (TRA); Cox Communications, Inc. (Cox).

⁷ See decision dated November 27, 1996 in Docket No. 96-06-23, Application of SNET for Approval to Reclassify Message Toll Service from the Non-Competitive Category to Competitive.

Clearly, competition in Connecticut has flourished and has not, in any way, been impeded by SNET's PIC freeze option. Any argument to the contrary is simply a smokescreen, as the reality of the Connecticut telecommunications market clearly demonstrates.

Furthermore, as stated above, SNET's PIC freeze offering is available to the customers of any IXC, not just SNET's long distance customers. Indeed, SNET will apply a PIC freeze to the account of any customer who requests one.

III. PIC FREEZES ARE NECESSARY TO PROTECT CONSUMERS FROM SLAMMING.

PIC freezes were implemented by LECs in response to customers' desires to protect their accounts against slamming. Indeed, SNET believes the PIC freeze is the most effective way to protect consumers from the unscrupulous practices of some interexchange carriers (IXCs). Furthermore, as demonstrated in the Comments filed in this proceeding by various parties, PIC freezes have been praised by both customers and regulators alike as a means to protect customers' choice of carriers.

It is important to note that PIC freezes do not deny customers the right to switch carriers. Nor is it difficult for customers to switch carriers once a PIC freeze has been implemented. The customer simply needs to provide verification to the LEC that the customer has authorized the change. This can be done by either calling the LEC or providing the LEC with written verification of the change. As intended, PIC freezes simply prevent carriers from slamming

customers in violation of the Commission's rules. Customers can still effect a PIC change if they so desire. Once a LEC has received a customer's authorization, the LEC then changes the customer's PIC.

IV. SNET'S PIC FREEZE SOLICITATIONS PROVIDE CUSTOMERS WITH A THOROUGH UNDERSTANDING OF THE IMPLICATIONS OF IMPLEMENTING A PIC FREEZE AND THE PROCEDURES FOR REMOVING A FREEZE.

Contrary to the assertions of various commentors in this proceeding,⁸ SNET has not misled or confused customers by failing to provide customers with information regarding the implications of a PIC freeze or the procedures necessary to remove a freeze. Specifically, SNET's direct mail solicitation informs customers regarding what a PIC freeze entails and clearly states that, once the customer implements a freeze on his/her account, the customer's long distance lines will not be switched unless the customer gives his/her *express written or verbal consent*. Clearly, customers feel that the protection they receive from the PIC freeze is worth the extra step that might be required should they decide to change their PIC in the future. Contacting the LEC to authorize a PIC change certainly cannot be considered an undue burden by any means.

⁸ AT&T; Sprint; CompTel; Cox.

V. THE RULES PROPOSED BY MCI AND OTHER IXC'S ARE UNNECESSARY AND UNWORKABLE.

Should the Commission decide to adopt rules regarding PIC freezes, it should not adopt the rules proposed by MCI in its Petition. As discussed in SNET's comments, as well as the comments of other LECs, MCI's proposed rules are vague, unworkable and unnecessary.

Furthermore, MCI's proposed rule requiring carriers offering PIC freezes to furnish to requesting carriers, the name and telephone number of *all* consumers who have PIC freezes on their accounts, violates the privacy rights of customers and the Act's requirements regarding Customer Proprietary Network Information (CPNI).⁹ In addition, implementation of this rule would permit abuse of customer information for marketing or other purposes, in violation of the Commission's rules.

In addition, other parties have proposed, in their Comments, rules regarding the solicitation and implementation of PIC freezes. Specifically, AT&T's proposal that LECs that are classified as dominant carriers should be prohibited from implementing local carrier freezes should not be adopted.¹⁰ There is no relationship between the regulatory status of a LEC and the need of its customers for protection against slamming.

⁹ See 47 U.S.C. § 222.

¹⁰ AT&T, pg. 6.

Also, AT&T has suggested that carriers should be permitted to submit customers' change orders directly to LECs.¹¹ This procedure should not be required, unless the orders clearly reflect the consent of the customer to change PICs notwithstanding the presence of a PIC freeze on the customer's line. Imposing such a requirement without such consent would effectively eliminate the very protection which PIC freezes afford customers.

Sprint's proposal that LECs designate certain personnel separate from those assigned to sales and marketing functions to handle customer requests to implement or remove PIC freezes¹² is also unnecessary, as is Sprint's proposal that LECs treat such requests as ministerial and not as an opportunity to market the services of its affiliates.¹³ Nor is it necessary to adopt rules proscribing the use of false and deceptive statements to customers to secure PIC freezes.¹⁴ All carriers are already subject to Section 201 of the Communications Act which prohibits unreasonable practices such as these. Thus, the Commission already has the ability to sanction any deceptive or misleading conduct on the part of any carrier.

¹¹ Id., pp. 7-8.

¹² Sprint, pg. 12.

¹³ Id., pg. 10.

¹⁴ Id., pg. 12, n. 8.

Sprint also suggests that, as a long term solution, the Commission should assign responsibility for administering the PIC freeze process to a neutral third party.¹⁵ This proposal is also unnecessary and administratively burdensome.

The Telecommunications Resellers Association's (TRA) proposal that the Commission eliminate PIC freezes in their entirety¹⁶ is completely unacceptable. It is no secret that slamming complaints comprise a significant portion of complaints filed with the Commission, with state regulators and with LECs. Currently, SNET believes that the PIC freeze is the most effective way to protect customers from this illegal practice. To eliminate PIC freezes in their entirety would leave customers vulnerable to unscrupulous IXCs seeking to gain customers without their express consent. This was not what Congress intended when it passed the Act, nor is it the result that the Commission would like to see occur.

Finally, as SWBT, Pacific Bell and Nevada Bell point out in their Comments, any regulations adopted by the Commission relating to slamming and/or PIC freezes should be applicable to all carriers, especially given the emergence of local competition and the plethora of competitive LECs that will be in the marketplace.

¹⁵ Id., pg. 13.

¹⁶ TRA, pg. 7.

VI. CONCLUSION

PIC freezes serve to protect customers' carrier choice. As described above and in SNET's Comments, LECs' PIC freeze practices are necessary to protect customers from the increasingly prevalent practice of slamming and making this service available to customers does not impede competition. Moreover, based on SNET's experience, customers choosing to protect their accounts with a PIC freeze are fully apprised of the implications of the freeze and the procedures for removing it. The Act mandates that the Commission establish rules regarding slamming and related issues. Thus, MCI's Petition for Rulemaking should be dismissed and the Commission should consider the issue of PIC freezes as part of its overall consideration of slamming issues pursuant to the Act. In any event, the rules proposed by MCI are unnecessary and unworkable and should not be adopted by the Commission.

Respectfully submitted,

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TELEPHONE COMPANY

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LETTERS

'Slammed' consumer fights back with 'block'

I feel I must respond to your article "MCI sues SNET," as I am totally on the side of SNET and their "blocks."

After not only being harassed by both MCI and AT&T, I was "slammed," or I should say my 14-year-old daughter was, by AT&T. All of a sudden, all my long-distance calls were being billed through AT&T in my daughter's name. After several phone calls and letters I was finally able to resolve the problem, as the phone is in my name and not my daughter's.

After this problem was resolved, I contacted SNET and requested that a block be put on my phone line that would prevent anyone from chang-



ing my phone service. I do not want my phone service changed and I feel that I have that right to request that. The block insures my rights.

MCI and AT&T call me between two and four times per week. I always find their calls disrupting,

annoying and their people not always the most pleasant. My long-distance carrier is my choice and I should not have to explain myself or defend my choice of carrier several times per week.

I am curious as to what gives MCI the right to sue SNET? And is there nothing I can do to prevent SNET's competitors from calling me as often as they want?

Possibly the public should band together and sue MCI and AT&T for harassment in the form of a class-action suit. In this day of absurd amounts of telemarketing, I believe enough is enough.

Gary Friend
East Haven

New Haven Register
June 13, 1997